



6351-01-P

COMMODITY FUTURES TRADING COMMISSION

Agency Information Collection Activities: Notice of Intent to Revise Collection 3038-0052; Core Principles and Other Requirements for Designated Contract Markets

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice.

SUMMARY: The Commodity Futures Trading Commission (“Commission”) is announcing an opportunity for public comment on the proposed revision of a collection of certain information by the agency. Under the Paperwork Reduction Act (“PRA”), Federal agencies are required to publish notice in the *Federal Register* concerning each proposed collection of information, including proposed revision of an existing collection of information, and to allow 60 days for public comment. This notice solicits comments on the revision of estimates contained in information collection requirements related to the recent amendment of the timing and scope of a report required to be filed by self-regulatory organizations (SROs) pursuant to Commission Regulation 1.52.

DATES: Comments must be submitted on or before **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: You may submit comments, identified by “OMB Control No. 3038-0052” by any of the following methods:

- The Agency’s web site, at <http://comments.cftc.gov/>. Follow the instructions for submitting comments through the web site.

- Mail: Christopher Kirkpatrick, Secretary of the Commission, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581.

- Hand Delivery/Courier: Same as Mail above.

Please submit your comments using only one method. All comments must be submitted in English, or if not, accompanied by an English translation. Comments will be posted as received to <http://www.cftc.gov>.

FOR FURTHER INFORMATION CONTACT: Joshua Beale, Associate Director, Division of Swap Dealer and Intermediary Oversight, Commodity Futures Trading Commission, (202) 418-5447; email: jbeale@cftc.gov.

SUPPLEMENTARY INFORMATION: Under the PRA, 44 U.S.C. 3501 *et seq.*, Federal agencies must obtain approval from the Office of Management and Budget (“OMB”) for each collection of information they conduct or sponsor. “Collection of Information” is defined in 44 U.S.C. 3502(3) and 5 C.F.R. 1320.3 and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA, 44 U.S.C. 3506(c)(2)(A), requires Federal agencies to provide a 60-day notice in the *Federal Register* concerning each proposed collection of information, including each proposed revision of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, the CFTC is publishing notice for the amendment of the collection listed below. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Title: Core Principles and Other Requirements for Designated

Contract Markets (OMB Control No. 3038-0052). This is a request for a revision of a currently approved information collection.

Abstract: The Commission has recently amended its regulation 1.52 to revise the scope and potential frequency of a third-party expert's evaluation of SROs' financial surveillance programs. The evaluation report requirement is a portion of the existing information collection of requirements for SROs under Commission regulation 1.52, including Designated Contract Markets and the National Futures Association. The Commission's rulemaking will not alter the requirement for an SRO to engage an examinations expert to evaluate its supervisory program prior to the initial use of the supervisory program. The Commission, however, is eliminating the requirement that the examinations expert must review the SRO's ongoing application of its supervisory program during periodic reviews and the analysis of the supervisory program's design to detect material weaknesses in internal controls during both periodic reviews and the initial review prior to the program's initial use. The Commission also is revising the frequency of when an SRO must engage an examinations expert. Regulation 1.52 required an SRO to engage an examinations expert at least once every three years to perform such a review. The Commission amended Regulation 1.52 to require an SRO to engage an examinations expert whenever the Public Company Accounting Oversight Board ("PCAOB") issues new or revised auditing standards that are material to the SRO's examination of member FCMs. The amendments further require an SRO to engage an examinations expert at least once every five years even if the SRO determined that the PCAOB did not issue new or revised auditing standards during the previous five-

year period that are material to its examinations of member FCMs. The changes to the examinations expert reviews impact the resulting expert reports information collection burden. The information collection is necessary to enhance the ability of the Commission and the designated self-regulatory organization to identify problematic financial matters in time to avoid market disruptions when an FCM may fail, particularly with respect to the tie-up of customer funds that may result.

The Commission, when originally proposing changes to regulation 1.52, invited comments on its assessment that although the costs associated with obtaining the third-party expert would be reduced by the amendment, the paperwork burden impact of the amended scope of the report would be minimal. The Commission received no comments and has adopted the final rule. However, the Commission has determined that a slight revision of the expected burden hours associated with the information collection is possible due to the changes related to the third-party examinations expert report. Accordingly, the Commission is revising the total burden hours related to regulation 1.52 included in this collection.

The Commission previously estimated the entire burden hours for designated contract markets as SROs associated with regulation 1.52 as 50 hours per respondent. The revised scope of the third-party evaluation report should slightly reduce personnel hours needed to coordinate obtaining the report, although most of the burden hours included in this collection are associated with other aspects of the financial surveillance program requirements. Therefore, the Commission is revising the estimate of the burden hours associated with regulation 1.52 to be 49 hours per respondent. Additionally, the

Commission notes that the number of registered, active DCMs has decreased from 15 to 14.

With respect to the collection of information, the CFTC invites comments on:

- Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have a practical use;
- The accuracy of the Commission's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Ways to enhance the quality, usefulness, and clarity of the information to be collected; and
- Ways to minimize the burden of collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology; e.g., permitting electronic submission of responses.

You should submit only information that you wish to make available publicly. If you wish the Commission to consider information that you believe is exempt from disclosure under the Freedom of Information Act, a petition for confidential treatment of the exempt information may be submitted according to the procedures established in § 145.9 of the Commission's regulations.¹

The Commission reserves the right, but shall have no obligation, to review, pre-screen, filter, redact, refuse or remove any or all of your submission from

¹ 17 CFR 145.9.

<http://www.cftc.gov> that it may deem to be inappropriate for publication, such as obscene language. All submissions that have been redacted or removed that contain comments on the merits of the ICR will be retained in the public comment file and will be considered as required under the Administrative Procedure Act and other applicable laws, and may be accessible under the Freedom of Information Act.

Burden Statement: The Commission is revising its estimate of the burden for this collection.² The respondent burden for this collection is estimated to be as follows:

Respondents/Affected Entities: Designated Contract Markets and Self-regulatory Organizations.

Estimated Number of Respondents: 14.

Estimated Average Burden Hours Per Respondent: 49.

Estimated Total Annual Burden Hours: 686.

Frequency of Collection: Various.

The amended regulations require no new startup or operations and maintenance costs.

(Authority: 44 U.S.C. 3501 *et seq.*)

Dated: March 29, 2019.

Robert Sidman,

Deputy Secretary of the Commission.

² There are three Information Collection's (ICs) that fall within OMB Control No. 3038-0052. The changes in the Final rules adopted herein only pertain to IC: Enhancing Protections Afforded Customers and Customer Funds Held by Futures Commission Merchants and Derivatives Clearing Organizations and relate only to amendments to Regulation 1.52, which has been reduced by 1 burden hour per respondent. Additionally, the number of respondents has decreased from 15 to 14.

